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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,489	02/20/2004	Gregg S. Wilson	HCMT / 03	2133
26875 7590 04/12/2007 WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			EXAMINER BUI, LUAN KIM	
			ART UNIT 3728	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/783,489	WILSON, GREGG S.	
	Examiner	Art Unit	
	Luan K. Bui	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-9, 13-19 and 27-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-9, 13-19 and 27-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 13 is finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 13, the phrase “the panels being joined along said side edges and bottom edges” appears a double recitation of claim 6.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 7, 9, 13-16 and 19 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins (2,295,143) or Calciano (5,638,955) in view of Harden (6,533, Geschwind) and Schneck (6,338,572). Watkins discloses a bag/disposable cover (20) for holding an item (26) comprising a panel folded along a fold line (41) to form a pair of panels with each panel having side edges and a top edge. The side edges of the panels coupled together to form a cavity (21) therebetween sized to closely receive an item. The panels having an opening at their top edges and one of the panels having an extending flap portion (24, 24a) above the opening to the top edge of that panel. The flap portion is sized to fold over the cover opening and into overlapping relationship with a confronting portion of the other panel and the flap

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portion having a cut line (25) extending downwardly from the top edge to define two ears (24, 24a) for wrapping around a cord (28) of the item. Watkins further discloses means (30a, 30b) associated with the extending flap portion for securing the panels together at the opening with the item inside the cavity.

Calciano discloses a holder/disposable cover (10) for holding an item (11) comprising a first panel (a front panel of a body 12) and a second panel (a rear panel of the body 12) connected with the first panel to form a cavity therebetween sized to closely receive the item (11). The panels having an opening at their top edges and one of the panels having an extending flap portion (15, 16) above the opening to the top edge of that panel. The flap portion is sized to fold over the cover opening and into overlapping relationship with a confronting portion of the other panel and the flap portion having a cut line (17) extending downwardly from the top edge to define two ears (15, 16) for wrapping around a cord (28) of the item. Calciano further discloses means (20-23) associated with the extending flap portion for securing the panels together at the opening with the item inside the cavity. Watkins or Calciano also discloses the other claimed limitations except for a pair of panels each having two side edges, a top edge and a bottom edge with the side and bottom edges of the panels being coupled together to form the cavity in lieu of the single panel, the flap portion comprises a perforated line to define the two ears in lieu of the cut line and the means for securing comprises adhesive in lieu of snap fasteners (30) as taught by Watkins or Velcro connector as taught by Calciano.

Harden teaches a pouch/disposable cover (10) comprising a pair of panels (20, 30) each having two side edges, a top edge and a bottom edge with the side and bottom edges of the panels being coupled (8) together to form the cavity for receiving an item. Schneck shows a bag (10)

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comprising a flap (24) having a perforated line (30) and the perforated line may be separated to define at least a pair of ears (24, 28) and the flap having a strip of adhesive (32) for securing the flap to the bag.

Therefor, it would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Harden and Schneck to modify the cover of either Watkins or Calciano so the cover comprises a pair of panels each having two side edges, a top edge and a bottom edge with the side and bottom edges of the panels are coupled together to form the cavity as taught by Harden to facilitate forming the cover and since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art and the cut line comprises a perforated line and the perforated line is separated to define the two ears and the means for securing comprises adhesive as taught by Schneck to allow the user to separate the perforated line whenever needed and to facilitate securing the flap portion to the cover respectively. The cover of either Watkins or Calciano is capable for receiving a patient bed hand control box.

As to claims 14-16, Watkins discloses the cover formed from a plastic rubber (page 1, column 1, lines 28-32) and Calciano discloses the cover formed from nylon or any other suitable material (column 3, line 42-43). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cover of either Watkins and Calciano so the cover formed from the material as claimed since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

As to claim 19, Schneck shows the adhesive extended across the perforated line (Figure 6).

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5. Claims 8 and 27-29 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to the claims above, and further in view of Huffer (5,499,713). Watkins or Calciano further fails to show a removable tape overlying the adhesive. Huffer teaches a cover (10, 12) comprising an adhesive (26) on a surface of the cover and a removable tape (28) overlying the adhesive. It would have been obvious to one having ordinary skill in the art in view of Huffer to modify the cover of Watkins or Calciano as modified so the cover includes a removable tape overlying the adhesive to prevent the cover from closing unintentionally.

6. Claims 17, 18, 30 and 31 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 6 and 27 above, and further in view of Tzeng (6,471,056). The cover of Watkins or Calciano as modified further fails to show a notch therein. Tzeng teaches in the embodiment of Figure 7, a cover having a notch (74). It would have been obvious to one having ordinary skill in the art in view of Tzeng to modify the cover of Watkins or Calciano so the cover includes a notch to allow the user access to the item within the cover.

Response to Arguments

Applicant's arguments with respect to 3/7/2007 have been considered but are deemed to be moot in view of the new grounds of rejection.

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Applicant indicates some confusion with respect to the phrase “references as applied above” on page 8 of the remarks is noted. As indicating from above, claims 8 and 27-29 are rejected as being unpatentable over Watkins or Calciano in view of Harden, Schneck and Huffer. Claims 17 and 18 are rejected as being unpatentable over Watkins or Calciano in view of Harden, Schneck and Tzeng since claim 17 depends from the independent claim 6. However, claims 30 and 31 are rejected as being unpatentable over Watkins or Calciano in view of Harden, Schneck, Huffer and Tzeng since claim 30 depends from the independent claim 27.

Applicant’s arguments with respect to Watkins or Calciano on page 11 of the remarks are noted. They are not persuasive because the cover of Watkins or Calciano is capable to be used once and throw away and the adhesive as cited in the claims does not indicate that reopening the cover essentially destroys the cover for further use.

Applicant’s arguments with respect to the other references are noted. They are not persuasive for the reasons as set forth above.

Applicant’s amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lkb
April 9, 2007



Luan K. Bui
Primary Examiner
Art Unit 3728